

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

MIGUEL A. MARTINEZ,)
Plaintiff(s),)
vs.)
LAS VEGAS METROPOLITAN POLICE)
DEPARTMENT, et al.,)
Defendant(s).)
Case No. 2:15-cv-00883-MMD-NJK
REPORT AND
RECOMMENDATION

On January 20, 2017, the Court issued a screening order dismissing with leave to amend certain claims in Plaintiff's amended complaint, and permitting Plaintiff's Fourth Amendment claim against Defendant Donovan to proceed. Docket No. 12. The Court allowed Plaintiff 30 days from the date of its order to file a second amended complaint curing the deficiencies it identified in his amended complaint. *Id.* at 4-5. The Court specifically stated that, if Plaintiff chose not to file a second amended complaint, the undersigned would recommend that the action proceed only on Plaintiff's Fourth Amendment claim against Defendant Donovan. *Id.* at 5. Plaintiff has not filed a second amended complaint. *See* Docket.

Accordingly, pursuant to the screening order, the undersigned **RECOMMENDS** that the Court allow this action to proceed on Plaintiff's Fourth Amendment claim against Defendant Donovan only.

IT IS SO ORDERED.

DATED: June 23, 2017.

NANCY J. KOPPE
United States Magistrate Judge

NOTICE

Pursuant to Local Rule IB 3-2, any objection to this Report and Recommendation must be in writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has held that the courts of appeal may determine that an appeal has been waived due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also held that (1) failure to file objections within the specified time and (2) failure to properly address and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).